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December 4, 2001

EPA Region 5 Records Ctr.

Via Facsimile (312/886-0747) and U.S. Mail Tom Turner Associate Regional Counsel U. S. EPA -- Region V Office of Regional Counsel 77 W. Jackson Boulevard Chicago, IL 60604

RE:

Stellar Manufacturing Company

RRG/Clayton Chemical Superfund Site, 1 Mobile Avenue, Sauget, IL

Dear Mr. Turner:

I am writing to follow up on our December 3, 2001 telephone conferences regarding my client, Stellar Manufacturing Company's ("Stellar") relationship to the RRG/Clayton Chemical Superfund Site (the "Site").

As we discussed yesterday, Stellar is concerned about receiving U.S. EPA's General Notice letter. You indicated to me that Stellar was included in the first round of General Notice letter mailings, because Stellar is one of the top 31 contributors to the Site, and that each of the parties included in this first mailing contributed greater than 500,000 gallons of hazardous materials to the Site. However, as I explained to you yesterday, Stellar reviewed its files and only identified 4 shipments of used oil to the Site, amounting to a total of 19 drums, or approximately 1000 gallons of used oil. Attached for your review are copies of the 4 manifests Stellar has in its files showing shipments to the Site.

Upon your review of these manifests, you should see that, while Stellar's records are consistent with some of the data your office has regarding Stellar's contribution to the Site, there is an enormous discrepancy between the amount of material EPA attributes to Stellar (735, 142 gallons) and the amount evidenced by Stellar's records (approximately 1000 gallons). Three similarities exist between your data and Stellar's documents. First, you indicated yesterday that

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COMPANY: FAX NUMBER: PHONE NUMBER:	10m Turner US EPA Region V 312/886-0747 312/886-6613	
TO: COMPANY: FAX NUMBER: PHONE NUMBER:		
FROM: DATE: PHONE NUMBER:	Tara K. Callahan December 4, 2001 (314) 259-2457	
MATTER:	070798	
TOTAL NUMBER O	F PAGES (INCLUDING THIS PAGE):	8

If you experience difficulty in receiving this facsimile, please call Michele Bailey at (314) 259-2975.

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MESSAGE FROM SENDER:

December 4, 2001 Page 2

your records show a total of 4 shipments from Stellar to the site. Correspondingly, Stellar has identified though its document review only 4 manifests of shipments to the Site. Second, the document you provided by fax to me today is an Illinois EPA Hazardous Waste Report for 1997, presumably an annual report completed and filed by RRG. This report shows that Stellar sent a total of 605 units of waste petroleum distillates at 7.5 lb/gallon to the Site in 1997. While you indicated that the form did not provide the unit of measurement modifying the "605," a comparison to Stellar's manifests make clear that the unit is gallons. The 605 "units" sent to the Sitc in 1997 by Stellar agrees precisely with Stellar's two manifests for shipments to the Site in 1997. As you will see from the enclosed manifests, on July 8, 1997, Stellar sent one shipment of 7 drums, or 385 gallons, of "waste flammable liquid" to the Site, and on October 12, 1997, Stellar sent one shipment of 4 drums, or 220 gallons, of "waste flammable liquid" to the Site. These two shipment combined equal 605 gallons of material sent by Stellar to the Site in 1997. While you did not provide the other documents reflecting Stellar shipments to the Site, you did tell me that your documents showed a total of 4 shipments by Stellar to the site made up of 1 shipment totaling 605 units and 3 shipments totaling 3,636 units of material. The two remaining manifests enclosed show that Stellar sent two shipments to the Site in 1998: one shipment on February 25, 1998 of 4 drums, or 1780 pounds of "waste flammable liquid," and one shipment on June 10, 1998 of 4 drums, or 1856 pounds, of "waste flammable liquid." Combined, these shipments total 3,636 pounds of material and thus correspond exactly with your data. Because Stellar's records conform with the data you have from IEPA, we believe that there has been some kind of transcription or computation error that resulted in attributing to Stellar 735,142 gallons of materials that it allegedly sent to the Site.

After your review of the enclosed manifests, I am certain that you will realize that Stellar's contribution to the Site is de minimis at most. In fact, Stellar should be considered a de micromis party. Given your explanation that the generators identified in the first notice letter mailing sent at least 500,000 gallons of materials to the site, the amount of waste sent to the Site by these parties alone totals 15,000,000 gallons (not including Stellar's share). Since Stellar sent approximately 1000 gallons of used oil to the site, Stellar's share, at this point, is .0000645% of the total volume (and this does not even account for materials sent by all the other PRPs not yet identified). US EPA's policy under the June 3, 1996 Revised Guidance on CERCLA Settlements with de micromis Waste Contributors is not to pursue parties whose contribution is equal to or less than .002% of the total volume of materials containing hazardous substance. Clearly, Stellar's contribution of .000645% to the total volume of materials at the Site makes Stellar a perfect candidate for de micromis treatment.

Accordingly, we are asking your office to withdraw its letter as to Stellar. From our conversation, the purpose behind mailing the first round of general notice letters is to encourage the major PRPs to form a group so that they may take the lead in performing the response actions outlined in the letter. I'm sure you would agree that, because Stellar qualifies as a de micromis contributor, it does not make sense to require Stellar to expend the necessary time,

December 4, 2001 Page 3

money and effort it would take to organize or perform any of the response activities at the Site. In fact, proceeding against Stellar runs contrary to EPA's own policy to resolve quickly and fairly the liability of small volume waste generators through de micromis settlements. The EPA states in its June 3, 1996 Revised Guidance on CERCLA Settlements with de micromis Waste Contributors:

"... for many de minimis parties, the cost of legal representation, absent early settlement, may exceed those parties' proportional share of responsibility. For these reasons, EPA has redoubled its efforts to resolve the liability of small volume contributors. These efforts are not enough, however, for those parties whose contributions are so small that their shares of responsibility are in effect zero. For these de micromis parties, the administrative costs of determining and verifying the party's share, if any, and the cost of collecting the small payment required through a de minimis settlement could far exceed that share. Therefore, as a matter of national policy, EPA intends to use its authority . . . to review and resolve the potential liability of de micromis parties without incurring such costs."

Because of Stellar's de micromis contribution to the Site and in keeping with EPA's own mandate to quickly resolve de micromis liability, we would greatly appreciate a written response from your office, withdrawing the notice letter as to Stellar.

Thank you for your attention to this matter. If you have any questions or concerns regarding any of the issues discussed herein, please do not hesitate to contact me.

Sincerely,

Tara K. Callahan

Joia & Halls

Enclosure.

cc: Tom Connelly, Jr.

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